

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

RAYMOND L. GEARHART,)	
)	
Petitioner,)	
)	
v.)	Civil Action
)	No. 06-3074-CV-S-RED-H
JOSEPH E. GUNJA, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate Judge for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate Judge has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the magistrate judge, in which he continues to assert that he should be released immediately; that his continued incarceration is contrary to law, and that his commitment pursuant to 18 U.S.C. § 4246 was obtained in error. A review of the files and records in this case, however, establish that the defendant was committed to the custody of the Attorney General under the provisions of 18

U.S.C. § 4246, by the United States District Court for the Western District of Missouri (*U. S. v. Gearhart*, 05-3193), and that commitment was affirmed by the United States Court of Appeals for the Eighth Circuit in June of 2006 (8th Cir. 05-3179). No further relief is appropriate in this matter, and petitioner's exceptions must therefore be overruled. It is

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis; it is further

ORDERED, ADJUDGED and DECREED that the petition filed herein be dismissed without prejudice.

/s/ Richard E. Dorr
RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

Date: January 10, 2007